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Attorneys for Richard M. Pachulski,  
Chapter 11 Trustee

FILED & ENTERED

JAN 25 2018

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY sumlin DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re:

LAYFIELD & BARRETT, APC,

Debtor.

Case No.: 2:17-bk-19548-NB

Chapter 11

**ORDER APPROVING MOTION TO  
APPROVE SETTLEMENT WITH  
EVANSTON INSURANCE COMPANY**

Date: January 23, 2018

Time: 1:00 p.m.

Place: United States Bankruptcy Court  
Edward R. Roybal Federal Building  
255 E. Temple Street, Crtrm. 1545  
Los Angeles, California 90012

Judge: Hon. Neil W. Bason

The Court, having considered the Motion for Order Approving Settlement With Evanston Insurance Company [Docket No. 184] (the "Motion"), filed by Richard M. Pachulski, the duly appointed chapter 11 trustee (the "Trustee") in the above-captioned bankruptcy case of Layfield & Barrett, APC, pursuant to which the Trustee and Evanston Insurance Company ("Evanston", and together with the Trustee, the "Parties") sought entry of an order to approve a settlement resolving the claims asserted by Evanston against the Trustee in the adversary proceeding pending in this Court entitled *Evanston Insurance Company v. Layfield & Barrett, APC, et al.*, Adversary Proceeding No. 2:17-ap-01412-NB, as set forth in that certain Settlement Agreement and Mutual Release executed by the Parties, dated December 1, 2017, came on for hearing at the date, time and

1 place stated above. Appearances were made by counsel for Mr. Barrett and for Premium  
2 Assignment Corporation II, as reflected on the record. There were no other appearances, apparently  
3 because the Trustee and Evanston were not notified that this Court's posted tentative ruling would be  
4 contested, and because the tentative ruling excused appearances. See **Exhibit A** hereto. Pursuant to  
5 the posted procedures of the undersigned Bankruptcy Judge, this court considered whether the  
6 hearing should be continued to address the merits with all parties present.


7 This Court having considered the Motion, the related pleadings filed by Joseph M. Barrett  
8 (dkt. 192), Premium Assignment Corporation II (dkt. 195, 196, 208), Evanston Insurance Company  
9 (dkt. 198, 206, 2013), Daniel Tontini (dkt. 212), the Trustee's reply (dkt. 208), the arguments,  
10 representations, and statements of counsel for Mr. Barrett on the record; and based on this Court's  
11 findings and reasons set forth in the tentative ruling, which this Court adopted as its final ruling, and  
12 on the record at the hearing, it is HEREBY ORDERED THAT:

13 1. The Motion is GRANTED, subject to holding the proceeds for future division  
14 between the bankruptcy estate and Premium Assignment Corporation II, as set forth in the *Trustee's*  
15 *Reply Brief Regarding Oppositions of Joseph M. Barrett [Docket No. 192] and Premium Assignment*  
16 *Corporation II [Docket No. 196] to Motion for Order Approving Settlement With Evanston*  
17 *Insurance Company [Docket No. 184] [Docket No. 207]. Attached hereto as **Exhibit "A"** is the*  
18 Court's tentative ruling which is hereby incorporated herein as the Court's final ruling.

19 2. The Court shall retain jurisdiction to hear and determine all matters arising from or  
20 relating to this Order.

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23  
24 Date: January 25, 2018

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\_\_\_\_\_  
Neil W. Bason  
United States Bankruptcy Judge

**EXHIBIT A**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

**Tuesday, January 23, 2018**

**Hearing Room 1545**

1:00 PM

**2:17-19548 Layfield & Barrett, APC**

**Chapter 11**

**#1.00** Cont'd hrg re: Motion For Order Approving Settlement  
With Evanston Insurance Company  
fr. 1/11/18

Docket 184

**Tentative Ruling:**

Grant, subject to holding the proceeds for future division between the bankruptcy estate and Premium Assignment Corporation II ("Premium") as set forth in the Chapter 11 Trustee's reply (dkt. 207). Appearances are not required.

*Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

*Key documents reviewed (in addition to motion papers):* Mr. Barrett's Opposition (dkt. 192); Premium's Opposition papers (dkt. 195, 196); Mr. Barrett's Brief re Informal Discovery Conference (dkt. 199); the brief of Evanston Insurance Company ("Evanston") re same (in support of protective order to preclude deposition) (dkt. 200); Evanston's Statement of Non-Opposition (dkt. 198); Evanston Replies (dkt. 205, 206); and the Chapter 11 Trustee's Reply (dkt. 207).

*Reasons:* The tentative ruling is that, in addition to the reasons stated in the motion (dkt. 184) and the reply briefs filed by the Trustee (dkt. 207) and Evanston (dkt. 206), Mr. Barrett has not established that (a) the expense to the bankruptcy estate of the proposed discovery (let alone any expense that Evanston could charge against any premium refund) would be justified by (b) the apparently remote or perhaps non-existent possibility of discovering facts that would support Mr. Barrett's legal theories, nor has he established that the language of the proposed release in the settlement agreement is so broad that it exceeds the scope of what the estate is permitted to release. See Motion, dkt. 184, pp. 9:27-10:2 (citing *inter alia* Cal. Ins. Code section 650 "The rescission shall apply to all insured under the contract, including

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**CONT... Layfield & Barrett, APC**

**Chapter 11**

additional insureds, unless the contract provides otherwise . . . .").

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

<b>Party Information</b>
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**Debtor(s):**

Layfield & Barrett, APC

Pro Se

**Movant(s):**

Richard Pachulski (TR)

Represented By  
Malhar S Pagay  
James KT Hunter

**Trustee(s):**

Richard Pachulski (TR)

Represented By  
Malhar S Pagay  
James KT Hunter